

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

KENT FARGHER,

Case # 0081012843

Charging Party,

ORDER

-v-

BUTTE SILVER BOW LAW
ENFORCEMENT DEPARTMENT,

Respondent.

Kent Fargher (Fargher) filed a complaint with the Department of Labor and Industry (Department) alleging that Butte Silver Bow Law Enforcement Department (Butte) discriminated against him on the basis of age when he was temporarily switched to the day shift and when he was reprimanded for an incident that occurred a year earlier. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Fargher's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Fargher filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 19, 2008. Fargher appeared and argued on his own behalf. Allen Chronister appeared and argued on behalf of Butte.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-*

2-511(3)(a), MCA. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Kent Fargher's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Butte Silver Bow Law Enforcement Department.

DATED this ____ day of December, 2008.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of December 2008.

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ALLEN CHRONISTER
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Montana Human Rights Bureau